Scott. H-27—45,000—9-11-34.

Dev (1935) Department.

Ex/18 SERIES.

G.O. No. 882

DATED 21.6.35

[Despatch Abstract.]

Memorial of B. Purushaya Ex-Forest Guard Residing near Marigudi Bolur

Ref 27/4/35 M-978-935

1

OFFICE OF THE CONSERVATOR OF FORESTS
Cur. No.
24 APR 1935
OOTACAMUND CIRCLE

5253/553
9/35

DEPUTY ... MADRAS
17 APR 1935 To

1113/35 M

His Excellency The Governor in Council,
Fort St. George,
M A D R A S.

Through,

NDC 508 1-35
Forwarded
Bodinayakkanur
17/4/35
DF to North Mangalore

DESPATCHED
18 APR 1935

The Chief Conservator of Forests,
M A D R A S.

The Conservator of Forests,
Ootacamund Circle,
O O T A C A M U N D.

&

29.4.35

The District Forest Officer,
Mangalore North Division,
M A N G A L O R E.

N. Rey M 1113/35 N dated 25.4.35
Returned to the District
Forest Officer Mangalore North
for resubmission with the
corrected record of the
case
25.4.35
Ag Conservator of Forests
Ootacamund Circle

The Humble Memorial of
B. Purushaya, Ex-Forest Guard,
Residing near Marigudi, Bolar,
Mangalore.

Dated 17th April 1935.

24/4/35

DEPUTY ... MADRAS
20 APR 1935

Most Respectfully Sheweth,

P. Purushaya

1. That being highly aggrieved by the order L. Dis. No. 1995/35 dated 15th March 1935 of the Chief Conservator of Forests, Madras rejecting his Memorial against the order L. Dis. M. No. 2695/34, dated 21 -11- 1934

of the Conservator of Forests, Ootacamund Circle, Ootacamund, rejecting his appeal against the order Ref. A.1. 553/F 34, dated 31 -5- 1934 of the District Forest Officer, Mangalore North dispensing with his services, the Memorialist humbly begs leave to file this Memorial praying for kind and favourable consideration and adequate redress.

2. That the said Chief Conservator of Forests (T. A. Whitehead Esq., I. F. S.) who has rejected the Memorial is the very Officer who had rejected the appeal of the Memorialist when he was the Conservator of Forests, Ootacamund Circle, and as such, he ought not to have disposed of the Memorial against his own order in appeal but ought to have reported the matter to the Government for disposal. Hence the said order of the Chief Conservator is contrary to rules, justice and equity (please Vide G. O. No. 2272, Revenue, dated 15 -9- 1920 - B. S. O. 172).-

3. That coming to the facts of the case, the Memorialist humbly begs to submit that he joined the Department as Forest Guard IV Grade on probation as per service order No. 94 dated 5 -8- 1921 of the District Forest Officer, Mangalore North, and he was confirmed in the said grade as per service order, dated 19 -3- 1923 of the District Forest Officer, Mangalore North, and has been working

without any serious flaw in his conduct until 14 -3- 1934 when a charge-sheet was framed against him by the Forest Range Officer, Udipi Range, charging him with disobedience of orders and neglect of duty, and submission of a false report.

4. That the said charge-sheet of the Range Officer does not show that it was approved by the District Forest Officer, and as such the charge-sheet in the case is contrary to rules and void.

5. That with regard to the merits of the case also, the Memorialist humbly begs to submit that the charges are unsustainable in every way.

6. That the first charge relates to the order to complete his line clearing by 31 -12- 1933 and to complete the fire tracing by 31 -1- 1934 for a distance of 22 miles.

7. That a kind perusal of the records of Udipi Range Office will clearly show that most of the Guards in the Range had not finished their line clearing work by 31 -12- 1933 nor had they finished fire tracing by 31 -1- 1934, but finished the same in March 1934.

8. That it was impossible to

said work was entrusted to him, and naturally therefore, it was impossible for him to complete the said work by the time allotted to him by the Forester - especially when the other Guards entrusted with similar work to a lesser extent and in better localities were not able to complete their work by the said dates.

11. That the Memorialist therefore humbly begs to submit that the 1st charge relating to disobedience of orders and neglect of duty is quite unsustainable and there are no grounds to find him guilty in respect of the said charge, as there was no deliberate disobedience of orders or any wilful neglect of duty, but only physical impossibility for any one to do the said work by the said dates.

12. That with regard to the second charge relating to submission of a false report, dated 28 -1- 1934 to the effect that he had cleared the line of Thinglamakki and Pithabail Enclosures for fire tracing, the Memorialist humbly begs to submit that such a report was obtained by the Forester from him only, and not from any other Guards. It is not at all customary for the Forester to receive such reports regarding completion of works from the Guards, but when the work is completed, every Guard has to submit the muster roll maintained by him during the period of the work, and it

15. That the Memorialist humbly begs to submit that even if the Forester obtained completion reports from the Guards, it does not absolve him from inspecting and checking the work shown in the said reports, and as such not much importance can be attached to the opinion of the Forester who blindly follows such irregular proceedure and attaches great value to the said reports - especially so when in this case, his own diary and report clearly show that he did not inspect the whole line but only a part of the work.

16. That in this connection the Memorialist humbly begs to point that ~~on~~ no oral enquiry was held in this case by the District Forest Officer in order to give the Memorialist an opportunity to cross examine the Forester in the matter of the threats used by him to the Memorialist for the purpose of obtaining the completion report from him, as also in the matter of obtaining completion reports from the other Guards of the Range.

17. That the punishment meted out to the Memorialist, viz dispensing with his services after a service of about 13 years, is unduly severe and too excessive, and out of all proportion to the merits of the case, even assuming that the charges are proved to the hilt as against the Memorialist.

18. That in this connection the Memorialist most humbly begs to point out that on 3 occasions, he was ordered to appear before the District Medical Officer for being examined as to his fitness for further service, but fortunately for him he was found fit for further service on all those occasions. There was absolutely no necessity or reason for sending the Memorialist to the District Medical Officer so repeatedly when he was found fit previously. These attempts to oust the Memorialist from the Department made by interested parties having proved futile, the present attempt has been made to oust him some how or other.

19. That it is unfortunate that the Conservator of Forests has simply rejected the Memorialist's appeal without giving any reasons to disbelieve or reject the grounds stated by the Memorialist in his appeal; and that the very same Conservator of Forests has now, as the Chief Conservator of Forests, again rejected the Memorial submitted by the Memorialist against his own orders in appeal, without referring the matter to the Government for disposal.

20. That the Memorialist, therefore most humbly and respectfully prays that

C.F. 34.

PROCEEDINGS OF THE Chief Conservator of Forests, Madras
MEMORANDUM

Post Box No. ____ *Telegraphic Address* Chief Conservator.

Name T.A. Whitehead Esq., I.F.S.,

L. Dis *No.* 1996/35 *dated* 15th March *1935*.

Short title Memorial from B. Purushayya - late Forest Guard - Mangalore North Division.

READ--the following:—

Reference: Memorial from B. Purushayya dated 21-2-35 and Endorsement of the Conservator, Cotacamund Circle M. 612/35 dated 5-3-1935.

:::::

The memorial is rejected.

19-3

for Ag.Chief Conservator.

To B. Purushayya, Ex-Forest Guard,
Residing near Marigudi, Bolar Mangalore
(with p.p. 10-14 c.f. returned)

Cmp K.S.S.18.3.35.

19.3.35

C.F. 34

PROCEEDINGS / MEMORANDUM OF THE Conservator of Forests, Cotacamund Circle, Ootacamund. (camp: Kasaragod)

*Post Box No.*_____ *Telegraphic Address* Conservator, Cotacamund Circle, Ootacamund.

Name ~~F.A. Whitehead, Esq., I.F.S., Conservator of~~ Forests, Cotacamund Circle.

L.Dis.L. *No.* ~~2695/C~~ *dated* ~~31st Nov.~~ *193* 4.

Short title Public Servants - appeal petition - ~~[illegible]~~ - Ex.Forest Guard - Mangalore North division - rejected.

READ—the following:—

1. Appeal petition dated 16.9.1934 from ex-Forest Guard S. Purushaya.
ii. Connected records.

ORDER.

The appeal is rejected.

(Sd). F.A. Whitehead,
Conservator of Forests, Cotacamund.

Copy to the appellant through the Dt.Forest Officer, Mangalore North.

Copy to the Dt.Forest Officer, Mangalore North with reference to his No.A.1-1726/34 dated 27.10.1934.
2. The records of the case are returned herewith by registered post.

(True copy)
(By order)

Manager.

Ref A1-1726-7 84

Forwarded

Action

Dt. Forest Officer
Mangalore North

F.A. 26/11

Forwarded
Ranger Officer
Udipi 2.12.34

Dy. 3/12/34
Sd/11
Sd/- the RO. Udipi with 2 mahs (2 bags)

3 DEC 1934

Ref A.1. /F.34.

Refers 198-F34

PROCEEDINGS OF THE DISTRICT FOREST OFFICER, MANGALORE NORTH, MANGALORE, dated 31st May 1934.

******

A.L. Griffith Esquire, I.F.S.,

****

Read the following :-

1. Udipi Range Officer's Ref C.No. 219/F.34, dated 11-3-34 and this Office Ref A.1. 553/F.34, dated 19-3-34 awaiting further report re enquiry into the lapse on the part of B. Purushaya, Forest Guard IV Grade, Someshwar South beat, now on special duty at Sitanadi.

2. Charge sheet Ref C.No.198/F.34, dated 14-3-34 against B. Purushaya Forest Guard IV Grade of Someshwar South beat now on special duty for disobedience of orders and neglect of duty and submission of a false report in connection with the fire tracing work in his beat.

3. Explanation, dated 2-4-34 and 12-5-34 from Forest Guard B. Purushaya received with the Udipi Range Officer's endorsement N.Ref C.No. 198/F.34, date 17-5-34 thereon.

4. Statement dated 30-5-34 from Forest Guard B. Purushaya before the District Forest Officer, Mangalo North, and

5. Conduct register and service register of the Fore Guard and all other connected records in the case

O r d e r .

In the charge sheet the Forest Guard is found guilty of (1) Disobedience of orders and neglect of duty in not completing and not nearly completing his fire protection work in spite of great help given to him. Thus he has endangered the Reserved Forest in his charge during the fire season, a very serious thing, (2) submission of a false report in that he submitted a completion report for a work that was incomplete- again a very serious thing.

His only case is that he alleges that he was threatened by the Forest. He produces nothing to support this, he does not wish to peruse records, examine witnesses or to be heard in person. This is an admission that his

excuse is not sustainable.

His past work has not been good and since 1924 he has been found unfit for beat charge. He has also been found lazy, unreliable and unfit for special duty.

In 1933 he was given 3 warnings (one of which was accompanied by a Black mark) that his work must improve. His last two half yearly reports show that his work has not improved.

In the past he has been very leniently treated as he is deaf and stupid, but he was examined by the District Medical Officer on 18-11-1933 and found fit for duty. This leniency cannot, therefore, be continued as the Forest Department is not a Benevolent Society but a public department for the protection of valuable Government properties and these have been seriously endangered by the lazyness of this Forest Guard.

I, therefore, order that his services be dispensed with, with effect from the date of his receipt of this order.

District Forest Officer,
Bangalore North.

To B. Purushaya, Forest Guard IV Grade, on special duty at Sitanadi, through the Range Officer, Udi.

Copy to the Range Officer, Udipi.
~~Copy to the Service Sheet for~~
F.M.R/9-6-34.

Refer 198-734
Forwarded to B.G. Purushya

2. Orders will follow as to whom he shows hand over charge.

Range Officer 13/6/34

24 25

Finding by the District Forest Officer, Bangalore North on the charges and explanation of P. Purushoya, Forest Guard IV Grade, Sitanadi Beat now on special duty at Sitanadi. Shasthivana South Range

Charge I.

Disobedience of orders and neglect of duty

14-6-34

The Forest Guard was ordered in writing on 24-11-1933 to complete his line clearing by 31-12-1933 and to complete the fire tracing by 31-1-34. This was a perfectly reasonable order. He had 12 miles to do and was given 5 weeks to do it i.e he had to do 4 miles a week - a little over mile per day.

Upto 28-2-34 he had cleared 15 miles in 3 months i.e. roughly 1 mile per week and had only fire traced about 1 miles and this was only done here and there in grassy places. To this must be added the fact that half his work had been done by others in order to help him.

By this laxyness he had not only delayed urgent works being measured and paid for but had also endangered the forests in his charge during the fire season.

In his explanation the Forest Guard admits that the work was not finished. He also states that the Forester threatened to report against him if he did not complete the work This is no excuse for not doing the work which he had been ordered to complete by a month earlier.

I, therefore, find hum guilty of disobedience of orders and neglect of duty.

Charge II.

Submission of a false report.

The Forest Guard reported in his report, dated No.93, dated 28-1-34 that he had cleared the lines of Singlamakki and Kittehail enclosures for fire tracing - actually the work hadnot been done.

In his diry for week ending 3-3-34 he showed line clearing round the closure and states that this was done in ignorance and that he id more regrowth clearing while fire-tracing but his diaries for 28-11-33 to 3-3-34 do not show

any such clearing.

The Forest Guard admits the submission of the completion report but implies (he does not state so) that it was submitted because the Forester threatened him. In the completion report he makes no mention of this alleged threatening no. did he submit at that time to the [illegible] officer or to the District Forest Officer.

I, therefore, find the Forest Guard guilty of the submission of a false report.

District Forest Officer
Jamalpore North.

N.N./9-6-34.

R.[illegible] 173/F.[illegible]

CHIEF CONSERVATOR OF FORESTS 15 MAY 1935 MADRAS

Resubmitted to the Conservator of Forests, Ootacamund Circle, with the following records :-

1. L.Dis. File 163/33 (30 leaves) (E)
2. D.Dis. file 553/1934, dated 4-7-34 (186 pages). (B)
3. Personal file of late Forest Guard P. Puttaraya. (P)
4. Service register with leave account [illegible]

OFFICE OF THE CONSERVATOR OF FORESTS 1113/35 OOTACAMUND CIRCLE

Office of the Dt.Forest Officer,
Mangalore North
Mangalore, dated 3rd May 1935

District Forest Officer,
Mangalore North.

M.N.F.R/[illegible]-35

DESPATCHED 3 MAY 1935

Ref.No.M.1113/35 dated 9.5.1935.

Forwarded to the Chief Conservator of Forests, Madras, with reference to his L.Dis. No.1995/35 dated 15.5.35.

2. The following records are submitted:-

Enc.
Regd. Post

(i) Mangalore North Dt.Forest Officer's L.Dis. No.163/33 (30 leaves)
(ii) -do- " " D.Dis. file No.553/34 dated 4.7.1934 (186 pages).
(iii) Personal file of the memorialist.
(iv) Service Register with leave account of the memorialist.
(v). Conservator's L.Dis. No.2695/34 dated 21.11.1934 (40 xx pages)

Forest Conservator's Office,
Ootacamund Circle,
Ootacamund, 9th May 1935.

(sd) G.C. Robinson,
Ag.Conservator of Forests,
Ootacamund Circle.

(True copy)
(By order)

Manager.

V.R.10/5

RECEIVED 13 MAY 1935

1- JUN 1935
DEVELOPMENT DEPT.

Dev 2499 I
5-6-35

Endorsement Ref.No. 3638-35.D2, dated 30-5-1935.

Submitted to Government with reference to G.O. No. 436 Public (Services) Department, dated 12-3-1935.

2. The memorialist's services were dispensed with by the District Forest Officer, Mangalore North Division for disobedience of orders and neglect of duty, and also for submitting a false report.

3. His first appeal to the Conservator and the memorial to the Chief Conservator were both rejected.

4. The connected records are submitted.

C. [illegible] 31.V.
for Ag.Chief Conservator.

DESPATCHED
1-JUN 1935

To

The Secretary to Government,
Development Department,
with memorial and records.

Enclosure:-

Memorial — pp 1-9 impr
D.F.O's D.Dis.No.553-34 — (B)
L.Dis.No. 163-33 — (E)
Personal file and service registers — (P)
Conservator's L.Dis.No.2695-34. — (C)

ks.31.5.35.

Dev. Dept.

C no 2499 I/35

Memorial – B. Purushaya – ex Forest Guard – Mangalore North Dn.

PP 1-9 Cf
P. 17 Cf

From the Memorialist dated 17-4-1935.
Endt of the C.C.F. no 3638-35-D2 dt 30-5-35

To Asst. Secy.

Please see the memorial at P.P. 1-9 Cf and the C.C's forwarding remarks thereon at P. 17 Cf

The memorialist's services were dispensed with by the D.F.O. Mangalore North for disobedience of orders and neglect of duty and for submitting a false report. (B) His appeal to the Conservator Gotacamund circle was rejected. His memorial to the C.C.F. was also rejected.

P 35 Cf (C)
Comm. P 10 Cf

2 The charges are at P. 17 Cf (B)
The explanations of the memorialist are at PP. 18-20 Cf (B)
Orders of the D.F.O. dispensing with the services of the memorialist are at PP. 83-84 Cf (B)
His appeal to the Conservator Gotacamund circle is at P.P. 1-11 Cf (C)
The orders of the Conservator dismissing the appeal are at P. 35 Cf (C)
(The records containing the memorial to the C.C.F. have not been submitted).
A copy of the proc. of the C.C.F. rejecting the memorial is at P. 10 Cf.

3. Procedure

The memorialist puts forward the following objections to the procedure followed.

(a) The Chief Conservator (Mr. T. A. Whitehead) who has rejected his memorial is the same officer who, as Conservator Coimbatore circle, rejected his appeal. Para 2 P 1 ✓

(b) The charge sheet framed by the Range Officer does not show that it was approved by the D.F.O. & as such the charge sheet in the case is contrary to rules & void. Para 4 P 3 ✓

(c) No oral enquiry was held in the case by the D.F.O. in order to give the memorialist an opportunity to cross examine the forester. Para 16 P 7 ✓

Item (a) above.

The authority quoted is B.S.O.-172 which runs as follows:— P.942 of Vol IV

7 (ii) In no case in which the Standing Orders provide for appeal or revision shall the Officer who passed an order dispose of an appeal or revision petition against that order. In such cases the officer must refer the matter to the authority next above him (eg) a divisional officer, who has dismissed a clerk cannot subsequently, as Collector, dispose of the clerk's appeal against the order of dismissal. He must report the

matter to the Board

1 L. p35 g(c) f p10 c-7

In the present case the C.C.F. disposed of the appeal had already been disposed of by him after the memorial submitted to him. The rule applies to the statutory appeal against the D.F.O's order of punishment & not to subsequent petitions & memorials. The argument of the memorialist will hold good if the D.F.O. who passed the original order and the Conservator who rejected the appeal are one & the same person. It is submitted, therefore, that there has been no irregularity

This fact did not affect him adversely so far as his right of appeal to the Conservator is concerned nor did it vitiate the Conservator's proceedings on appeal.

Dec 15.6.95

Item (b) at P. 2 ante.

p17 g(13)

In the present case the charge sheet was framed by the Range Officer & final orders were passed by the D.F.O. on the explanation of the memorialist. Submitted that there is nothing wrong in the procedure. The D.F.O. is the competent authority to dismiss the memorialist & it is not necessary that he should have previously approved of the charge sheet.

hfp § 3 = §24 - g(13)

Item (c) at P. 2 ante.

It is not necessary that an oral enquiry should be held. Rule 55 of the classification Rules lays down "..." The "grounds on which it is proposed to take action, shall be reduced to the form of a definite charge or charges, which shall be communicated to the person charged together with the statement

P bbg to "manner of ... statutory, lawful order ..."

of the allegations on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing orders on the case. He shall be required, within a reasonable time, to put in a written statement of his defence and to state whether he desires to be heard in person. If he so desires or if the authority concerned so directs, an oral enquiry shall be held".

In the present case the memorialist was specifically asked whether he wanted an oral enquiry & to cross examine any witnesses He has stated as follows :- "I see no necessity for perusing any records or examining anybody in connection with this charge sheet". The present allegation is therefore an afterthought & is not ~~sustainable~~ sustainable.

Ann I, (I)

Ann I, (B)
This has also been adverted to in the B.F.O Memo - Pt 2 of (B)

4. It is now for orders whether the memorial will be considered on its merits. If so, the M.S.C. may be called & the draft letter below is for approval

With reference to the C.E.F's forwarding Endt. (Para 1) dt 17 C.F., it may be noted that as the present memorial is addressed to His Excellency the Governor in Council the procedure prescribed in Fo 436 Part (M) dt 12-8-35 is not applicable.

As regards the question whether

A/9.6.35.
Cur 35
12.6.35

The first need entertain this memorial and consider its merits in consultation with the Commission, I submit that the facts connected with the case do not lead to the conclusion that such treatment is either necessary or deserved. The memorialist had already one night's appeal to the Conservator. There was no flaw in the proceedings of the D.T.O. and the statutory procedure must be deemed to have been followed. There appears to be no case on the merits either for allowing a second memorial to the first

15.6.35 S 17/6

2 H.M.C.

The memorial may be Rejected

17/6 17.6.35

17/6

To Asst Secy

Please see the orders in circulation above

A draft order is submitted for approval

17.6.35 16.6.35

C.F. 16.

DRAFT FOR APPROVAL.

Dev. Dept

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined..		
When signed ..		
When despatched.		

SUBJECT :— Forests

Memorial – B. Purushaya – Ex Forest Guard – Mangalore North Dn – rejected.

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO* :—

No. 24991/35 From the ~~Govt~~ Memorialist ~~R~~, No. – –, dated 17-4-1935. — pp 1-9 ✓

" Endt. g.te C.C.F. " 3638-35-D2 30-5-1935. — p 17 ✓

" " _____ " _____ " _____ 19____.

~~Resolution~~ Order Ms. No. 882, dated 21-6-35 19____.

The Govt decline to interfere on behalf of the memorialist

The Memorial is rejected

To the memorialist
(B. Purushaya
Ex Forest Guard
2 Near Marigudi, Kola
Mangalore)

" the C.C.F. with the records ✓ returned

X/17.6.35.

Dr 19.6.35

C.F. 19.6.35

⊗ D. Fols D. Dis No. 553-34-(B) ✓
Y. Dis – – 163/33 (E) ✓
Personal file & Service Regr – (P) ✓
Conservator's Y. Dis 2695-34 (C) ✓

Dsp here 21/6

Dispd (endorsing) 24/6

The need not be returned. Retained in my office 24/6/35

21/6/35